



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TE/GE – EO Mandatory Review
1100 Commerce Street, MC 4920-DAL
Dallas, TX 75242

Number: **200833023**

Release Date: 8/15/2008

LEGEND

ORG = Organization name XX = Date Address = address

UIL: 501.03-01

Date: April 26, 2008

EO

ORG
ADDRESS

Employer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer To:

TE/GE Review Staff

LAST DAY FOR FILING A

PETITION WITH TAX COURT:

July 25, 20XX

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination revoking your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

ORG has not established that you have been operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). You are not a charitable organization within the meaning of Treasury Regulations 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. You failed to establish that you were engaged in exempt activities, that your expenditures were for exempt purposes, and that your assets did not inure to private shareholder or individuals.

Based upon the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code retroactively to January 1, 20XX.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax return Form 1120 for all years beginning after December 31, 20XX. Form 1120 must be filed by the 15th day of the third month after the end of your annual accounting period. You are required to file Form 1120 with the appropriate Internal Revenue Campus.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

If you write, please attach a copy of this letter to help identify your account. Keep a copy for your records. Also, please include your telephone number and the most convenient time for us to call, so we can contact you if we need additional information.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the local Taxpayer Advocate office by calling, faxing, or writing to: Internal Revenue Service, Taxpayer Advocates Office.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals process, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
Tax Exempt & Government Entities
450 Golden Gate Avenue, MS 7401
San Francisco, CA 94102-3412

February 15, 2008

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX 12/31/20XX

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 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, & 13th companies

ISSUE:

Whether ORG's tax exempt status as an CO-1 described in section 501(c)(3) of the Code should be retroactively revoked because it is not operated exclusively for tax exempt purposes?

FACTS

Organizing Documents

On June 19, 20XX, President, formed the CO-1 (hereinafter called "CO-1"). The CO-1 was funded with a \$ grant from the CO-2 on 12/24/20XX. Pursuant to the Articles of Incorporation, Article III a states the CO-1 was created for the purpose of operating "as a charitable CO-1 in collecting donations and distributing such donations to existing 501(c)(3) charities on a non-profit basis." The Service granted the CO-1 its tax exempt status under § 501(c)(3) and foundation classification under 509(a)(1) of the Code on August 29, 20XX.

Article VI states the corporation's Board of Directors: Director-1, Address; President, Address, Director-2, Address.

The Bylaws which were provided to the Service during the CO-1's application for exemption state in Article II "The corporation is organized for non-profit purposes, and the specific purpose for which this non-profit corporation is organized is operated as a flow-through CO-1 by giving all its assets to existing qualified 501(c)(3) charities; and...to do the following: (a) to acquire and maintain buildings and property for storage and office facilities to serve as a collection point; (b) to solicit contributions and donations from individuals, groups, and CO-1s; (c) to engage in any and all types of activities not prohibited by law which shall promote the aforementioned purposes; and (d) to have and exercise any and all powers, rights, and privileges which a corporation organized under the Non-profit Corporation Act of the XYZ may now or hereafter have or exercise."

Article VIII, Section 8.5 (conflicts of interest) states "if any person who is a trustee or officer of the corporation is aware that the corporation is about to enter into a business transaction directly or indirectly with such person, any member of that person's family, or any entity in which that person has any legal, equitable or fiduciary interest or position ...shall immediately inform those charged with approving the transaction on behalf of the corporation of such person's interest or position, (b) aid the persons charged with making the decision by disclosing any material facts within such person's knowledge that bear on the advisability of such transaction from the

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standpoint of the corporation, and (c) not be entitled to vote on the decision to enter into such transaction.

Section 8.6 (loans to Trustees and Officers Prohibited). No loans shall be made by the corporation to any of its trustees, donors, or officers.

Exemption Application

The CO-1 filed Form 1023, Application for Recognition of Exemption, with the Service on June 19, 20XX. The contact person on the Form 1023 was Attorney. in City, XYZ. In Part II of the application, the Foundation described its past, present and planned operations as follows:

The CO-1 is being formed to collect and distribute charitable contributions destined for qualified 501(c)(3) charities.

The Foundation's response to Part II, question 2, (what are or will be the CO-1's source of financial support?) was "the CO-1 anticipates that it receive its financial support from residents of XYZ. However, this CO-1 will not specifically limit itself as such.

The Trustees listed on Form 1023 were as follows:

Director-1, Address
 President, Address
 Director-2, Address.

In Part II, Question 4(d), the CO-1 declares that non of the CO-1's governing body is a disqualified person with respect to the CO-1.

Question 8 asks the CO-1 what assets does it have that are used in the performance of its exempt function. The CO-1 stated that it will obtain funds from individual donors. The CO-1 will not require assets other than cash or other donated items, in the exercise of its exempt function.

Question 12 (b) Does or will the CO-1 limit its benefits, services, or products to specific individuals or classes of individuals? The CO-1 replied positively and stated that it will only contribute to existing recognized 501(c)(3) public charities.

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Part IV of the application contained financial information for the June 20XX, through December 31, 20XX, and proposed budgets for the two subsequent years 20XX and 20XX. Part IV Financial Data stated:

	<u>06/xx - 12/xx</u>	<u>1/xx - 12/xx</u>	<u>1/xx - 12/xx</u>	<u>Total</u>
1. Gifts, Grants, and Contributions				
3. Gross Investment Income				
8. Total				
15. Contributions, Gifts, Grants				
22 Other Legal Accounting Exp				
23. Total expenses				

The Foundation did not clarify if the gifts, grants and contributions in line 1 of the above proposed budget would be from the general public or President.

Part IV, Section B listed the assets owned by the Foundation during the short year of December, 20XX. The Foundation reported total assets of \$, which consisted solely of cash. No liabilities were reported for 20XX.

Amendments

On October 23, 20XX, the CO-1 filed an amendment to the articles of incorporation changing the name to ORG, Inc.

Annual Information Returns Form 990

The CO-1 reported revenue and expenses on Form 990 as follows:

Year	<u>20XX</u>	<u>20XX</u>	<u>20XX</u>
Contributions			
Interest on savings & temporary cash investments			
Dividends & Interest			
Plus:			
Gross Amount of Sale (Sec)			
Less Cost/Expense			
Gain (Loss) on Securities			

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Other investment income

Total Revenue

Program Services

Management and General

Other Expenses

Total Expenses

Excess (Deficit) for Year

Net Assets BOY

Increase in Net Assets

Net Assets EOY

The 20XX Form 990 revealed an increase in receivables on Line 51, *Other notes & loans receivable (attach sch)*, from \$0 at the beginning of the year to \$ at the end of the year. No schedule was attached to the return giving the terms of the note or loan receivable as required. The CO-1 did not complete Schedule B, Schedule of Contributors, on its 20XX Form 990.

Per Examination

Summoned bank records reveal that Bank account was opened on December 24, 20XX, by President for the CO-1 with an initial deposit of \$. The bank records confirmed that the authorized signer on account is one individual, President. No grants were made by the CO-1 in its initial short year.

The CO-1 reported \$ in contributions for the year ending December 31, 20XX. Check number for from Bank was written to ORG on for \$ December 30, 20XX. However, the check was charged back by the bank because the endorsement was missing. The CO-1 did not actually receive the funds until it was deposited in its Bank account on January 3, 20XX.

The CO-1 wrote check number for \$ to CO-1 on February 9, 20XX. The only other expenditures during 20XX was \$ in bank charges.

The CO-1 reported receiving \$ from contributions gifts and grants, and \$ in interest on savings and temporary cash investments. All of the funds received by the CO-1 in 20XX was from President either through his partnership, Bank, or 'President DBA CO-2'.

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The CO-1 provided only a vague response regarding the \$ non cash contribution. See Document Request below.

The CO-1 reported \$ in program service expenses (grants):

20XX Form 990 Reported:

CO-3

CO-4

CO-5

CO-6

Other 501 c(3)

Total

The bank statements revealed that only \$ was paid to qualified 501(c)(3) charities. The percent of net assets paid to charity in 20XX was 1.9% (\$/\$). The percent of the CO-1's expenditures that constitute program services (charitable activity) was 24.2%. The actual grants paid to qualified 501(c)(3) charities were:

CO-4

CO-5

CO-6

CO-5

Total

The CO-1 included the CO-3 in its computation of program service expense, however the CO-3 is not a 501(c)(3) CO-1. The CO-1 paid a nonqualified entity, the CO-3, \$ in 20XX.

The CO-1 reported \$ in management and general in 20XX:

20XX Form 990 Reported:

Legal Fees

Rent

Bank Charges

Dues

Postage &

Shipping

Total

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The Actual management and general expenditures were:

Accounting
Legal

Of the \$ in management and general, \$ was paid to CO-7. President is the President/Director of this CO-1. There were no evidence of any rental payments within the cancelled checks.

The following expenditures have not been substantiated:

5/26/20XX	1014	HBFC - CO-7	Legal & Bookkeeping
4/18/20XX	1008	CO-8	Missionary
6/27/20XX	1013	CO-8	missionary donation ()
1/6/20XX	1002	CO-9	missionary donation
4/19/20XX	1007	CO-10	20XX ... sept
9/2/20XX	1011	CO-11	automobile
11/8/20XX	1020	CO-12	Missionary Donation
11/28/20XX	1023	CO-13	Donation

The facts show that the President received \$4,000 in 20XX from the CO-1 through various entities:

\$ paid to CO-7 – President is President/ Director

\$ paid to CO-10 – President is labeled as a Manager of this entity. That translates to 24.35% of the CO-1s cash on-hand.

63% of the CO-1's expenditure are unsubstantiated or were for a non exempt purpose

Total unsubstantiated expenditures is \$ Total non exempt expenditure \$(CO-3)

Total non exempt/ unsubstantiated Expenditures \$

Total CO-1al Expenditures \$

Document Requests

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On March 8, 20XX¹, the Service sent Form 4564 asking the CO-1 to provide:

* Schedule B, Schedule of Contributors who donated \$5,000 or more (cash or property)

Response: The CO-1 did not provide Schedule B as requested, but stated that "no contributors \$ or more in cash during 20XX. See question 4 for list of contributors."

* Source of support totaling \$ (20XX)

Response: On June 20, 20XX, in response to Form 4564 the CO-1 stated "The \$ receipt is for payment on a note receivable transferred to ORG. The \$ represents interest received from Bank."

* Source or support totaling \$ (20XX):

Who contributed cash - \$

Response: Cash totaled \$ + + = \$.

Who contributed the non-cash contribution - \$? Provide Documentation

Response: The CO-1 did not respond to this question.

What is the non-cash contribution totaling \$? Provide documentation

Response: The CO-1 did not respond to this question.

Where is the non-cash contribution for \$ held? Provide documentation

Response: The CO-1 did not respond to this question.

* What is the source of income totaling in interest? Provide documentation.

Response: "The \$ receipt is for payment on a note receivable transferred to ORG. The \$ represents interest received from Bank."

¹ Form 4564 # 1 was sent to the CO-1 a second time on 4/19/20XX due on April 30, 20XX. On May 9, 20XX a summons was issued to the CO-1's Bank account due to lack of IDR response. A response to IDR # 1 was received by the Service on 6/25/20XX.

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* Form 990 lists on Line 51 a, Other Notes & Loans receivable totaling \$, the proper schedule was not attached. To determine if your are operated in accordance with your exempt purpose, provide all relevant information regarding this loan/note outstanding including, but not limited to:

Loan contract detailing -

a. Borrower's name and title b. Balance due c. Date of note e. Maturity date f. Repayment terms g. Interest rat h. Security provided by the borrower i. evidence of repayment
j. Purpose of the loan

Response: "The foundation received a \$ asset of a trust deed mortgage on real estate with a five year fixed interest rate of 6%...The mortgage is secured by property worth over 1.5 million dollars. The interest income from the mortgage interest has all been donated to qualified charities each year as reflected in the banking records and tax returns." The CO-1 did not provide Schedule B as requested.

Form 4564, IDR #3, was sent to the CO-1 on December 20, 20XX asking for the missing items on IDR # 1 (all minutes, books and records, contract outlying all parties involved and terms for the other note receivable). IDR # 03 asked the CO-1 to substantiate the following payments:

5/26/20XX	1014	HBFC - CO-7	Legal &
4/18/20XX	1008	CO-8	Bookkeeping
6/27/20XX	1013	CO-8	Missionary
			missionary donation ()
1/6/20XX	1002	CO-9	missionary
4/19/20XX	1007	CO-10	donation
9/2/20XX	1011	CO-11	20XX ... sept
			automobile
11/8/20XX	1020	CO-12	Missionary
11/28/20XX	1023	CO-13	Donation
			Donation

The Service also asked on Form 4564, IDR # 03:

Provide all details and supporting documentation regarding the note receivable transferred into the CO-1 including but not limited to:

- Address of property,

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- Identify all the individuals and/or entities involved in the transfer of the receivable (name and address),
- Written agreements/contracts/instruments, trust deeds, outlying the terms,
- What was the purpose of the transfer?

The CO-1 did not respond to the Service's request. The Service sent the CO-1 Form 872, Consent to Extend the Time to Assess Tax, and letter 1477 on January 25, 20XX asking the CO-1 to provide the missing documents requested. The CO-1 was given 15 days to respond to the letter or revocation of exempt status will be proposed.

The CO-1 did not respond to letter 1477.

Minutes

The CO-1 did not provide minutes to the Service. The CO-1 stated that "Books are currently being requested from President's ex-wife who has position of all documents and in uncooperative."

LAW

Section 501(c)(3) of the Code exempts from federal income tax CO-1s organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the CO-1's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an CO-1 described in section 501(c)(3) of the Code, the CO-1 must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an CO-1 will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An CO-1 will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an CO-1 is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. The words "private shareholder or individual" refer to

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persons having a personal and private interest in the activities of the CO-1. The term "Private shareholder or individual" is defined in regulation section 1.501(a)-1(c).

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an CO-1 is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. An CO-1 does not serve a public rather than a private interest within the meaning of Reg. 1.501(c)(3)-1(d)(1) if any of its assets or earnings inure to the benefit of any insiders (or disqualified persons). Inurement is any transfer of charitable assets to the CO-1's insiders for which the CO-1 does not receive adequate consideration. Inurement can take many forms.

It is necessary for an CO-1 to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, shareholders of the CO-1, or persons controlled, directly or indirectly, by such private interests.

The presence of a single substantial nonexempt purpose can destroy the exemption regardless of the number or importance of exempt purposes.

When an CO-1 operates for the benefit of private interests, such as designated individuals, the creator or his family, or persons directly or indirectly controlled by such private interests, the CO-1 by definition does not operate exclusively for exempt purposes. American Campaign Academy v. Commissioner, *supra* at 1065-66.

In Revenue Ruling 67-5, 1967-1 C.B. 123, it was held that a foundation controlled by the creator's family was operated to enable the creator and his family to engage in financial activities which were beneficial to them, but detrimental to the foundation. It was further held that the foundation did not operate a charitable program commensurate in scope with its financial resources, rather the foundation was only able to carry out minimal charitable activities. The ruling stated that the foundation was operated for a substantial non-exempt purpose and served the private interests of the creator and his family. Therefore, the foundation was not entitled to exemption from Federal income tax under section 501(c)(3).

In Revenue Ruling 64-182, 1967 CB 186, A corporation organized exclusively for charitable purposes derives its income principally from the rental of space in a large commercial office building which it owns, maintains and operates. The charitable purposes of the corporation are carried out by aiding other charitable CO-1s, selected in the discretion of its governing body, through contributions and grants to such CO-1s for charitable purposes. *Held*, the corporation is deemed to meet the primary purpose test of section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations, and to be entitled to exemption from Federal income tax as a corporation organized

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Explanation of Items		
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX 12/31/20XX

LEGEND

ORG = CO-1 name XX = Date Address = address President = President
 XYZ = State Attorney = attorney City = city Bank = bank
 Director-1 = 1st director Director-2 = 2nd director CO-1, CO-2, CO-3,
 CO-4, CO-5, CO-6, CO-7, CO-8, CO-9, CO-10, CO-11, CO-12, CO-13 = 1st, 2nd, 3rd,
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and operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954, where it is shown to be carrying on through such contributions and grants a charitable program commensurate in scope with its financial resources.

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every CO-1 exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Section 1.6033-1(h)(2) of the regulations provides that every CO-1 which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Section 1.6033-2(i)(2) of the Income tax regulations provides that "Every CO-1 which is exempt from tax, whether or not it is required to file an annual information return shall submit such additional information as may be required by the Internal Revenue Service for the purpose in inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code...."

Rev. Rul 59-95, An CO-1 previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every CO-1, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and

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regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. Held, failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an CO-1 previously held exempt, on the grounds that the CO-1 has not established that it is observing the conditions required for the continuation of an exempt status.

Rev. Rul. 56-304, CO-1s privately established and funded as charitable foundations which are organized and actively operated to carry on one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1954, and which otherwise meet the requirements for exemption from Federal income tax are not precluded from making distributions of their funds to individuals, provided such distributions are made on a true charitable basis in furtherance of the purposes for which they are organized. However, CO-1s of this character which make such distributions should maintain adequate records and case histories to show the name and address of each recipient of aid; the amount distributed to each; the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1) members, officers, or trustees of the CO-1, (2) a grantor or substantial contributor to the CO-1 or a member of the family of either, and (3) a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, CO-1s recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Section 1.501(c)-1(d)(1)(ii) of the Income tax regulations states that "An CO-1 is not organized or operated exclusively for one or more of the purposes specified ... unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an CO-1 to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the CO-1, or persons controlled, directly or indirectly, by such private interests."

Effective date of revocation

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An CO-1 may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a)(2); Rev. Proc. 20XX-4, §14.01 (cross-referencing §13.01 et seq.), 20XX-1 C.B. 123. An CO-1 may not rely on a favorable determination letter, however, if the CO-1 omitted or misstated a material fact in its application or in supporting documents. In addition, an CO-1 may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the CO-1's character, purposes, or methods of operation after the determination letter is issued. Rev. Proc. 20XX-52, 20XX-30, IRB 222.

The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the CO-1 omitted or misstated a material fact or operated in a manner materially different from that originally represented. Rev. Proc. 20XX-52, 20XX-30 IRB 222.

GOVERNMENT POSITION

The Service asked the CO-1 to provide specific information about its actual activities during the year ending December 31, 20XX, and December 31, 20XX. The CO-1 provided limited and vague information on its expenditures and financial transactions. Furthermore, based on the bank analysis the CO-1 provided limited charitable grants to qualified 501(c)(3) CO-1s.

The Internal Revenue Service asked the CO-1 to describe 44% of total expenses in the amount of \$. Within this \$, \$ was paid to entities controlled by President: \$ - HBFC and \$ CO-10. The CO-1 did not provide any supporting documentation these expenses. The CO-1 did not explain how the its expenses accomplished its exempt purpose. In addition to 44 % of unsubstantiated expenditures, a \$ grant was made to CO-3, an CO-1 that is not a 501(c)(3) charitable entity. 63% of the CO-1's expenditure are unsubstantiated or were for a non exempt purposes. The Service asked the CO-1 to provide all documents relating to the \$ note receivable, including the Deed of Trust, address of property held for security, identity all the individuals and/or entities involved in the transfer of the receivable (name and address), evidence the note is secured, and Schedule B, Schedule of Contributors.

The CO-1 only responded by stating "The foundation received a \$ asset of a trust deed mortgage on real estate with a five year fixed interest rate of 6%...The mortgage is secured by property worth over 1.5 million dollars. The interest income from the mortgage interest has all been donated to qualified charities each year as reflected in the banking records and tax returns." In response to the interest payments, the CO-1 stated, "The \$ receipt is for payment on a note receivable transferred to ORG. The \$ represents interest received from Bank." President is a general partner in Bank.

The CO-1 has not shown that this transaction exclusively served to benefit ORG rather than the creator's, President.

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An exempt CO-1 must respond to Internal Revenue Service inquiries to establish that it is entitled to tax exempt status. In this case the taxpayer had failed to establish that it was engaged in exempt activities, that its expenditures were for the purpose of exempt activities, or that its assets did not inure to private shareholders or individuals.

Taxpayer's Position:

The CO-1 has not submitted its position.

CONCLUSION

It is the IRS's position that the CO-1 failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)(3) of the Internal Revenue Code. Accordingly, the CO-1's exempt status is revoked effective January 1, 20XX.

Form 1120 returns should be filed for the tax periods ending January 1, 20XX.